

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of

2014 Quadrennial Regulatory Review – Review of the
Commission’s Broadcast Ownership Rules and Other Rules
Adopted Pursuant to Section 202 of the Telecommunications
Act of 1996

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) MB Docket No. 14-50
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2010 Quadrennial Regulatory Review – Review of the
Commission’s Broadcast Ownership Rules and Other Rules
Adopted Pursuant to Section 202 of the Telecommunications
Act of 1996

) MB Docket No. 09-182
)
)
)

Promoting Diversification of Ownership in the Broadcasting
Services

) MB Docket No. 07-294
)
)

Rules and Policies Concerning Attribution of Joint Sales
Agreements in Local Television Markets

) MB Docket No. 04-256
)
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**OPPOSITION OF NEXSTAR BROADCASTING, INC.
TO MOTION FOR EXTENSION OF TIME**

Nexstar Broadcasting, Inc.¹ (“Nexstar”) hereby submits this Opposition to the Motion for Extension of Time filed by Prometheus Radio Project and Media Mobilizing Project (collectively the “Prometheus”) in the above-captioned proceeding.² Prometheus seeks a 30-day extension of time to file oppositions to the Petitions for Reconsideration filed in the above-captioned proceeding. After acknowledging that the Federal Communications Commission (“Commission”)

¹ Nexstar is the licensee of 74 full-power television stations serving 58 predominantly medium and small markets. Nexstar is one of several parties who timely submitted Petitions for Reconsideration of the *2014 Quadrennial Regulatory Review*, Second Report and Order, 31 FCC Rcd 9864 (2016) (collectively, the “Petitions”).

² Motion for Extension of Time of Prometheus Radio Project and the Media Mobilizing Project, MB Docket Nos. 14-50, 09-182, 07-294, 04-256 (Jan. 4, 2017) (“Motion”). Prometheus subsequently submitted a Reply to Oppositoin (sic) to Motion for Extension of Time (Jan. 5, 2017) (“Reply Motion”) responding to NAB’s previously submitted Opposition to its Motion.

“does not ordinarily grant such extensions”³, Prometheus claims that an extension of time to file Oppositions to the Petition is necessary due to the “holiday period,” and the transition associated with the outgoing Chairman, which will generate “a period of reorganization that will likely preclude decisionmaking [sic] on controversial matters for at least several weeks.”⁴ In its Reply Motion, Prometheus argues that “the value of allowing interested parties adequate time to develop a complete record” justify grant under the special circumstances it raises in its Motion.⁵ Neither Prometheus’ Motion nor Reply Motion offers no credible basis upon which to grant such extension of time and, therefore, Nexstar strongly opposes a grant of an extension of time to file oppositions to the Petition and urges the Commission to deny the Motion.

It is laughable that Prometheus claims it requires more time “to develop a complete record.” The record is very complete. The quadrennial ownership review proceeding has been years in the making. Parties have had multiple opportunities to contemplate the issues, and comment, oppose, reply and appeal over several years. Indeed, Prometheus itself has submitted a plethora of filings in the proceedings all of which address the same issues raised in the Petitions. The Petitions, at base, do no more than ask the Commission to reconsider its decision based on the overwhelming evidence the petitioners previously submitted into the record. They do not raise new issues or put forth any arguments petitioners have not previously raised before the Commission. It is equally

³ See *Motion*, page 1. On page 2 of the Motion, Prometheus state that the Commission recently granted two extensions in unrelated proceedings due to similar circumstances. Those extensions were granted for proceedings that had a filing due date of December 27, 2016, a day directly adjacent to a federal holiday (December 26, 2016). Further one proceeding had a much shorter (34 day) comment cycle. See *Amendment of Section 73.3555(e) of the Commission’s Rules, National Television Multiple Ownership Rule*, DA No. 16-1420 (Dec. 20, 2016).

⁴ *Motion*, pp 1 -2.

⁵ *Reply Motion* at p. 1.

unlikely that Prometheus' opposition, when filed, will do more than raise the same arguments that it has raised over the prior decade or more.

Turning to the specifics of Prometheus' "special circumstances," Prometheus has had ample time – months in fact – to contemplate, discuss and begin preparing its opposition. The underlying Second Report and Order⁶ was published in the Federal Register on November 1, 2016, establishing December 1, 2016 as the date Petitions for Reconsideration to be filed.⁷ Four weeks after the Petition's availability in the Commission's Electronic Comment Filing System, Federal Register notice of the Petitions was released on December 30, 2016, establishing January 17, 2017 as the date for filing oppositions.⁸ Accordingly, Prometheus had an entire two months to begin contemplating and drafting its opposition to potential petitions before the opposition filing date was set. And, as noted above, the record in the proceeding is exhaustive and even without knowing the specifics of the actual Petitions, Prometheus had ample information at its disposal to discuss the matter with its clients and begin crafting its opposition to petitions it knew would be forthcoming. Indeed, if Prometheus had any doubt about the issues that would be raised in the petitions, it needed only to look at the National Association of Broadcasters Petition for Review filed in the United States Court of Appeals for the District of Columbia Circuit on November 14, 2016.

⁶ *2014 Quadrennial Regulatory Review*, Second Report and Order, 31 FCC Rcd 9864 (2016) (Order).

⁷ 81 FR 76220 (rel. Nov. 1, 2016). The Petitions were timely filed on December 1, 2016 and were available on December 2.

⁸ Petitions for Reconsideration of Action in Rulemaking Proceeding, 81 FR 96415 (rel. Dec. 30, 2016). The Federal Register Notice specifies that oppositions are due by January 17, 2017, and replies are due by January 24, 2017. Pursuant to 47 C.F.R. 1.429(g), replies are due within 10 days of the opposition deadline. Based on the rule, replies should be due by January 27, 2017.

Nonetheless, even if Prometheus chose to wait until the Petitions were submitted on December 1 and even assuming that Prometheus was completely unable to discuss its planned opposition for the entire week of December 26-30, Prometheus will have had more than six weeks to discuss its opposition with its clients and prepare the filing by January 17. It is simply specious to blame the “holidays” as the “holidays” were nearly over before the opposition filing date was set on December 30. Nexstar is unable to conceive how a 30-day extension is necessitated for this long-established comment process or how an extension might further the resolution of the proceeding. The “holidays” do not justify the extension Prometheus is seeking.

Prometheus’ “additional special circumstances” arising from the internal transition at the Commission, which occurs with every presidential election, as cause for a further extension of an established regulatory deadline is equally specious. Prometheus asserts that “the Commission and staff will be in a period of reorganization [which somehow] will likely preclude decisionmaking on controversial matters for at least several weeks.”⁹ Prometheus does not provide any actual support for the concept that staff reorganization somehow precludes the Commission from performing its obligations. It merely asserts “it will take some time – certainly weeks – before new lines of authority are clearly established and the new staff receives new directions.”¹⁰ It is difficult to believe that the agency and its employees, including the designated Interim Chairman and remaining Commissioners, are somehow unable to make decisions and take actions during a transitional period. Indeed, the Interim Chairman is likely to be one of the current Republican Commissioners, who – himself as well as his staff – are well versed in the Commission’s operations and “lines of authority.” Moreover, Nexstar is quite certain that with a complete record

⁹ *Motion* at p. 2.

¹⁰ *Id.*

on reconsideration in place (whether on January 24 or January 27), the Interim Chairman will be fully able to provide adequate direction to the Commission staff in this matter as such Interim Chairman has full knowledge of the existing record in this matter. Accordingly, and contrary to Prometheus' assertion, Nexstar expects that promptly upon the conclusion of the pleading cycle for the Petitions, the Commission is up to the task of evaluating the filings and promptly rendering any further decision notwithstanding the transition in leadership that will occur just prior to the completion of the pleading cycle as currently established.

Nexstar and the other various entities that submitted the Petitions have been waiting for well over six years for the Commission to provide a meaningful, fact-based evaluation of today's media marketplace and the impact of the Commission's outdated media ownership rules on their operations. Delaying completion of the reconsideration record to resolve the relevant issues because Prometheus has not been able to prepare its opposition in this proceeding (despite nearly six weeks of time to do so) and its belief that the Commission is incapable of timely action as a result of the imminent transition in leadership will not serve the public interest. For the foregoing reasons, Nexstar urges the Commission to deny the Motion.

Respectfully submitted,

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